

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Hyer 710 11

FILE: B-216515

DATE: October 23, 1984

MATTER OF: Atlantic Disposal Service, Inc.

DIGEST:

1. Protest alleging apparent low bidder's failure to hold necessary state licenses is dismissed since the matter concerns either: (1) an affirmative determination of responsibility (if the IFB required a particular license), or (2) a matter between the apparent low bidder and the licensing authority and/or a matter of contract administration (if the IFB requires general compliance with applicable licensing requirements).
2. Protest objecting to apparent low bidder's failure to furnish with its bid a list of affiliates required by IFB is summarily denied for lack of legal merit since agency may properly waive failure as minor informality.

Atlantic Disposal Service, Inc. (Atlantic), protests award to any firm other than itself under invitation for bids (IFB) No. F28209-84-B-0049 issued by McGuire Air Force Base, New Jersey, on the ground that Atlantic is the low responsive, responsible bidder on the IFB for refuse collection and disposal services.

We dismiss in part and deny the protest in part.

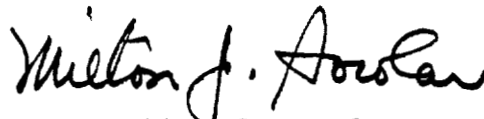
Atlantic specifically objects to an award to the apparent low bidder, R&E Carting, Inc. (R&E), because: (1) R&E lacks New Jersey licenses for hauling and disposing of refuse; and (2) notwithstanding an IFB requirement that bidders submit an affidavit with their bid reflecting the names and addresses of all affiliates, R&E failed to do so.

Regarding its first objection, we have recognized a distinction between IFB requirements that the bidder have a

030436

particular license and a general requirement that the bidder comply with any applicable licensing requirements. Where a particular license is required, compliance with the requirement is a matter of responsibility. 53 Comp. Gen. 51 (1973); National Office Moving Company; Keahey Moving and Storage, B-203304 et al., Jan. 4, 1982, 82-1 C.P.D. ¶ 4. GAO does not review an agency's affirmative determination of responsibility except where fraud, bad faith, or misapplication of a definitive responsibility criterion is shown. 4 C.F.R. § 21.3(g)(4) (1984); American Dredging Company, B-212212, July 26, 1983, 83-2 C.P.D. ¶ 130. On the other hand, where the IFB only generally requires bidder compliance with any applicable licensing requirements, we have held that a bidder's failure to possess a particular license is not necessarily a prerequisite to award since the need of a license to perform the contract is a matter between the bidder and the licensing authority. 53 Comp. Gen. 51, supra; National Office Moving Company; Keahey Moving and Storage, B-203304, et al., supra. Moreover, alleged future violations of state law in the course of contract performance is a matter of contract administration which we will not review. 4 C.F.R. § 21.3(g)(1) (1984); Arlington Ridge Civic Association, B-181015, Dec. 23, 1974, 74-2 C.P.D. ¶ 367.

Regarding Atlantic's second objection, we have held that a bidder's failure to furnish with its bid a list of affiliates, as required by the IFB, was a minor informality which may be waived or cured after bid opening. Tombs & Sons, Inc., B-206810.3, July 20, 1982, 82-2 C.P.D. ¶ 62. This aspect of the protest is therefore summarily denied for lack of legal merit. 4 C.F.R. § 21.3(g) (1984).



Acting Comptroller General
of the United States